

# HOUSE BILL 261

E2

EMERGENCY BILL  
*ENROLLED BILL*

(2lr2172)

— Judiciary/Judicial Proceedings —

Introduced by **Delegates Vallario, McDermott, Anderson, Dumais, Glenn, K. Kelly, Simmons, Smigiel, Valentino-Smith, and Wilson**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Criminal Procedure – ~~Office of the Public Defender – Representation~~**  
3 **Criminal Defendants – ~~Court Citations and Appearances~~**

4 FOR the purpose of ~~repealing the requirement that the Office of the Public Defender~~  
5 ~~provide representation to a certain indigent individual in all stages of a certain~~  
6 ~~proceeding; altering the specific events in which the Office of the Public~~  
7 ~~Defender is required to represent indigent individuals in criminal proceedings;~~  
8 ~~providing that a certain provision of law may not be construed to require~~  
9 ~~representation by the Office of the Public Defender at a certain initial~~  
10 ~~appearance~~ declaring the intention of the General Assembly to monitor certain  
11 issues and determine whether modification of this Act is required at a certain  
12 time; ~~prohibiting certain ex parte communications between a District Court~~  
13 ~~commissioner and a State's Attorney, an attorney for the defendant, or a law~~  
14 ~~enforcement officer~~ *authorizing an individual to file an application for a*

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics* indicate opposite chamber/conference committee amendments.



1 statement of charges with a District Court commissioner; authorizing a District  
2 Court commissioner to issue a summons or an arrest warrant under certain  
3 circumstances; requiring a police officer to charge a person by citation for certain  
4 misdemeanors and local ordinance violations; establishing that a police officer  
5 may charge a defendant by citation only under certain circumstances; providing  
6 that, under certain circumstances, an officer who has grounds to make a  
7 warrantless arrest may issue a citation in lieu of making the arrest or make the  
8 arrest and subsequently issue a citation in lieu of continued custody; prohibiting  
9 a certain statement made by a defendant during the course of an initial  
10 appearance before a District Court commissioner from being used as evidence  
11 against the defendant in a criminal proceeding or juvenile proceeding;  
12 establishing that a defendant who is denied pretrial release by a District Court  
13 commissioner or who remains in custody after a District Court commissioner  
14 has determined conditions of release under certain circumstances must be  
15 presented to a District Court or circuit court judge within a certain time period  
16 except under certain circumstances at a certain time; ~~repealing the requirement~~  
17 that the Office of the Public Defender provide representation to a certain  
18 indigent individual in all stages of a certain proceeding; ~~altering the specific~~  
19 events in which the Office of the Public Defender is required to represent  
20 indigent individuals in criminal proceedings; requiring the Office of the Public  
21 Defender to provide representation to an indigent individual at a bail hearing  
22 before a District Court or circuit court judge; providing that representation is  
23 not required to be provided by the Office of the Public Defender to certain  
24 indigent individuals at a certain initial appearance before a District Court  
25 commissioner; establishing a Task Force to Study the Laws and Policies  
26 Relating to Representation of Indigent Criminal Defendants by the Office of the  
27 Public Defender; providing for the membership and duties of the Task Force;  
28 providing for the designation of a chair of the Task Force; requiring the  
29 Department of Legislative Services to provide staff for the Task Force;  
30 prohibiting members of the Task Force from receiving compensation;  
31 authorizing a member to receive certain reimbursement; requiring the Task  
32 Force to report its findings and recommendations to the Governor and the  
33 General Assembly on or before certain dates; ~~requiring certain law enforcement~~  
34 officers to record certain information pertaining to the issuance of certain  
35 citations; requiring the Police Training Commission and the Maryland  
36 Statistical Analysis Center (MSAC), in consultation with the Administrative  
37 Office of the Courts, to develop a certain format for the recording of certain data  
38 and to develop certain procedures relating to the compilation and submission of  
39 certain data on or before a certain date; requiring the Police Training  
40 Commission to develop certain guidelines for certain data collection and a  
41 certain model policy relating to citations; requiring the MSAC to analyze certain  
42 data based on a methodology developed in conjunction with the Police Training  
43 Commission; requiring the MSAC to make certain reports to the General  
44 Assembly, the Governor, and law enforcement agencies; requiring law  
45 enforcement agencies to adopt certain policies regarding the issuance of certain  
46 citations; defining certain terms; providing for the application of certain  
47 provisions of this Act; providing for the termination of a certain provision of this

1 Act; making this Act an emergency measure; *providing for the effective date of a*  
 2 *certain provision of this Act*; and generally relating to ~~representation by the~~  
 3 ~~Office of the Public Defender.~~ *court citations for and* appearances by criminal  
 4 defendants.

5 *BY repealing and reenacting, with amendments,*  
 6 *Article – Courts and Judicial Proceedings*  
 7 *Section 2–607*  
 8 *Annotated Code of Maryland*  
 9 *(2006 Replacement Volume and 2011 Supplement)*

10 BY adding to  
 11 *Article – Courts and Judicial Proceedings*  
 12 *Section ~~2–607(f)~~ and 10–922*  
 13 *Annotated Code of Maryland*  
 14 *(2006 Replacement Volume and 2011 Supplement)*

15 ~~BY adding to~~  
 16 ~~*Article – Criminal Procedure*~~  
 17 ~~*Section 5–215*~~  
 18 ~~*Annotated Code of Maryland*~~  
 19 ~~*(2008 Replacement Volume and 2011 Supplement)*~~

20 BY repealing and reenacting, with amendments,  
 21 *Article – Criminal Procedure*  
 22 *Section ~~4–101~~ and 16–204*  
 23 *Annotated Code of Maryland*  
 24 *(2008 Replacement Volume and 2011 Supplement)*

25 *BY adding to*  
 26 *Article – Criminal Procedure*  
 27 *Section ~~4–101.1~~ and ~~5–215~~*  
 28 *Annotated Code of Maryland*  
 29 *(2008 Replacement Volume and 2011 Supplement)*

30 Preamble

31 ~~WHEREAS, This Act implements a right to counsel at bail hearings before a~~  
 32 ~~District Court or circuit court judge in response to the decision of the Court of Appeals~~  
 33 ~~of Maryland in *DeWolfe v. Richmond*, No. 34, September 2011 Term, issued January 4,~~  
 34 ~~2012; and~~

35 ~~WHEREAS, The Court in *DeWolfe v. Richmond* held that the plain meaning of §~~  
 36 ~~16–204(b) of the Criminal Procedure Article prior to enactment of this Act entitled~~  
 37 ~~indigent defendants to public defender representation at an initial appearance before a~~  
 38 ~~District Court commissioner; and~~

~~1 WHEREAS, The question of whether or not a constitutional right to counsel  
2 before a District Court commissioner exists was not reached by the Court of Appeals;  
3 and~~

~~4 WHEREAS, It is anticipated that this question will be addressed by the Court  
5 of Appeals or other appropriate appellate court as part of continuing litigation in  
6 DeWolfe v. Richmond or another claim or action; and~~

~~7 WHEREAS, The Task Force established by Section 3 of this Act shall address  
8 the adequacy and cost of laws and policies regarding the representation of indigent  
9 defendants by the Public Defender and the District Court commissioner and pretrial  
10 release systems; now, therefore,~~

*11 WHEREAS, The recent court decision in DeWolfe v. Richmond established the  
12 right of indigent defendants to counsel at bail proceedings in the State; and*

*13 WHEREAS, In 2011, over 170,000 people appeared before a District Court  
14 commissioner in the State where their liberty was subject to restriction and over 70,000  
15 of them were granted release on personal recognizance without the benefit of the  
16 presence of counsel; and*

*17 WHEREAS, A defendant who is not represented at a bail proceeding must speak  
18 to secure his freedom and thereby risk self-incrimination and prejudice to rights; and*

*19 WHEREAS, Many defendants cannot afford bail set at even a low amount of  
20 \$100 and some wait in jail for weeks before a court appearance for misdemeanor  
21 crimes; and*

*22 WHEREAS, Unnecessary pretrial detention has a severely disproportionate  
23 racial impact and major social costs; and*

*24 WHEREAS, Implementation of the changes called for by the DeWolfe decision  
25 will be extremely costly at a time when the State is already struggling with revenue  
26 shortfalls; and*

*27 WHEREAS, Alternatives to the incarceration of indigent individuals can reduce  
28 expenses to the State and local government without sacrificing public safety; and*

*29 WHEREAS, Altering the charging process for some misdemeanor crimes will  
30 improve the current administration of justice while also preserving the rights of  
31 indigent defendants; now, therefore,*

32 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
33 MARYLAND, That it is the intent of the General Assembly to continue to monitor the  
34 issues relating to representation of indigent defendants and to determine whether  
35 modification of this Act is required during the 2015 session of the General Assembly or  
36 earlier if an appellate court issues a decision related to the relevant issues in DeWolfe

1 v. Richmond or the Task Force established under Section ~~3~~ 4 of this Act issues its  
 2 report and recommendations.

3 SECTION ~~1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF~~  
 4 ~~MARYLAND~~ 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
 5 as follows:

6 Article – Courts and Judicial Proceedings

7 2–607.

8 ~~(F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS~~  
 9 ~~SUBSECTION, EX PARTE COMMUNICATIONS BETWEEN A DISTRICT COURT~~  
 10 ~~COMMISSIONER AND A STATE’S ATTORNEY, AN ATTORNEY FOR THE~~  
 11 ~~DEFENDANT, OR A LAW ENFORCEMENT OFFICER ARE PROHIBITED.~~

12 ~~(2) AN EX PARTE COMMUNICATION FOR SCHEDULING,~~  
 13 ~~ADMINISTRATIVE, OR EMERGENCY PURPOSES IS ALLOWED, IF:~~

14 ~~(I) THE COMMUNICATION DOES NOT ADDRESS~~  
 15 ~~SUBSTANTIVE MATTERS;~~

16 ~~(II) NO PARTY WILL GAIN A PROCEDURAL, SUBSTANTIVE,~~  
 17 ~~OR TACTICAL ADVANTAGE AS A RESULT OF THE COMMUNICATION; AND~~

18 ~~(III) THE COMMISSIONER PROMPTLY NOTIFIES THE OTHER~~  
 19 ~~PARTIES AND GIVES THEM AN OPPORTUNITY TO RESPOND.~~

20 (a) (1) The administrative judge of each district, with the approval of the  
 21 Chief Judge of the District Court, may appoint the number of commissioners necessary  
 22 to perform the functions of the office within each county.

23 (2) In multicounty districts, the administrative judge shall obtain the  
 24 recommendation of the resident judge in each county as to the number of commissioners  
 25 required in the county and as to the persons to be appointed.

26 (b) (1) Commissioners shall be adult residents of the counties in which  
 27 they serve, but they need not be lawyers.

28 (2) Each commissioner shall hold office at the pleasure of the Chief  
 29 Judge of the District Court, and has the powers and duties prescribed by law.

30 (3) Except without additional compensation, unless otherwise fixed by  
 31 law, an employee of the District Court, who is an adult, may be granted, in the same  
 32 manner, commissioner powers and duties in the county where the employee is  
 33 employed.

1           (c)   (1)   A commissioner shall receive applications and determine probable  
2 cause for the issuance of charging documents.

3           (2)   A commissioner shall advise arrested persons of their constitutional  
4 rights, set bond or commit persons to jail in default of bond or release them on personal  
5 recognizance if circumstances warrant, and conduct investigations and inquiries into  
6 the circumstances of any matter presented to the commissioner in order to determine if  
7 probable cause exists for the issuance of a charging document, warrant, or criminal  
8 summons and, in general, perform all the functions of committing magistrates as  
9 exercised by the justices of the peace prior to July 5, 1971.

10           (3)   There shall be in each county, at all times, one or more  
11 commissioners available for the convenience of the public and police in obtaining  
12 charging documents, warrants, or criminal summonses and to advise arrested persons  
13 of their rights as required by law.

14           (4)   A commissioner may exercise the powers of office in any county to  
15 which the commissioner is assigned by the Chief Judge of the District Court or a  
16 designee of the Chief Judge of the District Court.

17           (5)   The Chief Judge of the District Court may authorize one or more  
18 commissioners to perform the duties of a commissioner regarding persons arrested in a  
19 county other than the county in which the commissioner resides and for which the  
20 commissioner was appointed when the arrested persons are brought before the  
21 commissioner by a peace officer of the jurisdiction in which that arrest was made.

22           **(6) (I) AN INDIVIDUAL MAY FILE AN APPLICATION FOR A**  
23 **STATEMENT OF CHARGES WITH A DISTRICT COURT COMMISSIONER.**

24                   **(II) ON REVIEW OF AN APPLICATION FOR A STATEMENT OF**  
25 **CHARGES, A DISTRICT COURT COMMISSIONER MAY ISSUE A SUMMONS OR AN**  
26 **ARREST WARRANT.**

27                   **(III) A DISTRICT COURT COMMISSIONER MAY ISSUE AN**  
28 **ARREST WARRANT ONLY ON A FINDING THAT:**

29                           **1. THERE IS PROBABLE CAUSE TO BELIEVE THAT**  
30 **THE DEFENDANT COMMITTED THE OFFENSE CHARGED IN THE CHARGING**  
31 **DOCUMENT; AND**

32                           **2. A. THE DEFENDANT PREVIOUSLY HAS FAILED**  
33 **TO RESPOND TO A SUMMONS THAT HAS BEEN PERSONALLY SERVED OR A**  
34 **CITATION;**

1                    **B. THE WHEREABOUTS OF THE DEFENDANT ARE**  
2 **UNKNOWN AND THE ISSUANCE OF A WARRANT IS NECESSARY TO SUBJECT THE**  
3 **DEFENDANT TO THE JURISDICTION OF THE COURT;**

4                    **C. THE DEFENDANT IS IN CUSTODY FOR ANOTHER**  
5 **OFFENSE; OR**

6                    **D. THERE IS PROBABLE CAUSE TO BELIEVE THAT**  
7 **THE DEFENDANT POSES A DANGER TO ANOTHER PERSON OR TO THE**  
8 **COMMUNITY.**

9                    *(d) (1) The authority under this subsection applies only to a respondent*  
10 *who is an adult.*

11                    *(2) A commissioner may issue an interim order for protection of a*  
12 *person eligible for relief in accordance with § 4-504.1 of the Family Law Article or a*  
13 *petitioner in accordance with § 3-1503.1 of this article.*

14                    *(e) Notwithstanding the residence requirements set out in subsection (b) of*  
15 *this section, the Chief Judge of the District Court or a designee of the Chief Judge of the*  
16 *District Court may assign a commissioner of the District Court to serve temporarily in*  
17 *any county.*

18                    **Article – Criminal Procedure**

19                    **4-101.**

20                    *(a) (1) In this section the following words have the meanings indicated.*

21                    *(2) (i) “Citation” means a written charging document that a police*  
22 *officer or fire marshal issues to a defendant, alleging the defendant has committed a*  
23 *crime.*

24                    *(ii) “Citation” does not include an indictment, information, or*  
25 *statement of charges.*

26                    *(3) “Fire marshal” means:*

27                    *(i) the State Fire Marshal;*

28                    *(ii) a deputy State fire marshal; or*

29                    *(iii) as designated under § 6-304 of the Public Safety Article:*

30                    *1. an assistant State fire marshal; or*

1                                    2.    a special assistant State fire marshal.

2                    (4)    "Police officer" has the meaning stated in § 2-101 of this article.

3                    (b)    Within areas of the National Park System, a United States Park Police  
4 officer may exercise the authority of a police officer to issue a citation under this section.

5                    (c)    (1)    Subject to paragraph (2) of this subsection, in addition to any other  
6 law allowing a crime to be charged by citation, a police officer [may issue a] SHALL  
7 CHARGE BY citation for:

8                                    (i)    [sale of an alcoholic beverage to an underage drinker or  
9 intoxicated person under Article 2B, § 12-108 of the Code;

10                                   (ii)    malicious destruction of property under § 6-301 of the  
11 Criminal Law Article, if the amount of damage to the property is less than \$500;

12                                   (iii)    disturbing the peace or disorderly conduct under § 10-201 of  
13 the Criminal Law Article; or

14                                   (iv)    misdemeanor theft under § 7-104(g)(2) or (3) of the Criminal  
15 Law Article] ANY MISDEMEANOR OR LOCAL ORDINANCE VIOLATION THAT DOES  
16 NOT CARRY A PENALTY OF IMPRISONMENT;

17                                   (II)    ANY MISDEMEANOR OR LOCAL ORDINANCE VIOLATION  
18 FOR WHICH THE MAXIMUM PENALTY OF IMPRISONMENT IS 90 DAYS OR LESS,  
19 EXCEPT:

20                                    1.    FAILURE TO COMPLY WITH A PEACE ORDER UNDER  
21 § 3-1508 OF THE COURTS ARTICLE;

22                                    2.    FAILURE TO COMPLY WITH A PROTECTIVE ORDER  
23 UNDER § 4-509 OF THE FAMILY LAW ARTICLE;

24                                    3.    VIOLATION OF A CONDITION OF PRETRIAL OR  
25 POSTTRIAL RELEASE WHILE CHARGED WITH A SEXUAL CRIME AGAINST A MINOR  
26 UNDER § 5-213.1 OF THIS ARTICLE;

27                                    4.    POSSESSION OF AN ELECTRONIC CONTROL  
28 DEVICE AFTER CONVICTION OF A DRUG FELONY OR CRIME OF VIOLENCE UNDER  
29 § 4-109(B) OF THE CRIMINAL LAW ARTICLE;

30                                    5.    VIOLATION OF AN OUT-OF-STATE DOMESTIC  
31 VIOLENCE ORDER UNDER § 4-508.1 OF THE FAMILY LAW ARTICLE; OR

1                                   **6. ABUSE OR NEGLECT OF AN ANIMAL UNDER §**  
2 **10-604 OF THE CRIMINAL LAW ARTICLE; OR**

3                                   **(III) POSSESSION OF MARIJUANA UNDER § 5-601 OF THE**  
4 **CRIMINAL LAW ARTICLE.**

5                                   **(2) A police officer may [issue a citation to] CHARGE a defendant BY**  
6 **CITATION ONLY if:**

7                                   **(I) the officer is satisfied with the defendant's evidence of**  
8 **identity [and];**

9                                   **(II) THE OFFICER reasonably believes that the defendant will**  
10 **comply with the citation;**

11                                   **(III) THE OFFICER REASONABLY BELIEVES THAT THE**  
12 **FAILURE TO CHARGE ON A STATEMENT OF CHARGES WILL NOT POSE A THREAT**  
13 **TO PUBLIC SAFETY;**

14                                   **(IV) THE DEFENDANT IS NOT SUBJECT TO ARREST FOR**  
15 **ANOTHER CRIMINAL CHARGE ARISING OUT OF THE SAME INCIDENT; AND**

16                                   **(V) THE DEFENDANT COMPLIES WITH ALL LAWFUL ORDERS**  
17 **BY THE OFFICER.**

18                                   **(3) A POLICE OFFICER WHO HAS GROUNDS TO MAKE A**  
19 **WARRANTLESS ARREST FOR AN OFFENSE THAT MAY BE CHARGED BY CITATION**  
20 **UNDER THIS SUBSECTION MAY:**

21                                   **(I) ISSUE A CITATION IN LIEU OF MAKING THE ARREST; OR**

22                                   **(II) MAKE THE ARREST AND SUBSEQUENTLY ISSUE A**  
23 **CITATION IN LIEU OF CONTINUED CUSTODY.**

24                                   **(d) (1) Subject to paragraph (2) of this subsection, in addition to any other**  
25 **law allowing a crime to be charged by citation, a fire marshal may issue a citation for:**

26                                   **(i) discharging fireworks without a permit under § 10-104 or §**  
27 **10-110 of the Public Safety Article;**

28                                   **(ii) possessing with intent to discharge or allowing the discharge**  
29 **of fireworks under § 10-104 or § 10-110 of the Public Safety Article; or**

30                                   **(iii) maintaining a fire hazard under § 6-317 of the Public Safety**  
31 **Article.**

1           (2) A fire marshal may issue a citation if the fire marshal is satisfied  
 2 with the defendant's evidence of identity and reasonably believes that the defendant  
 3 will comply with the citation.

4           (e) (1) This section does not apply to a citation that is:

5                   (i) authorized for a violation of a parking ordinance or a  
 6 regulation adopted by a State unit or political subdivision of the State under Title 26,  
 7 Subtitle 3 of the Transportation Article;

8                   (ii) authorized by the Department of Natural Resources under §  
 9 1-205 of the Natural Resources Article; or

10                   (iii) authorized by Baltimore City under § 16-16A (special  
 11 enforcement officers) of the Code of Public Local Laws of Baltimore City for violation of  
 12 a code, ordinance, or public local law of Baltimore City concerning building, housing,  
 13 health, fire, safety, zoning, or sanitation.

14           (2) Except as otherwise expressly provided by law, the Chief Judge of  
 15 the District Court shall prescribe a uniform, statewide form of a citation.

16           (3) Except for the uniform motor vehicle citation form, the law  
 17 enforcement agencies of the State, the United States Park Police, and the Office of the  
 18 State Fire Marshal shall reimburse the District Court for printing the citation forms  
 19 that law enforcement officers and the State Fire Marshal require.

20           SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
 21 read as follows:

22                           Article – Courts and Judicial Proceedings

23           10-922.

24           A STATEMENT MADE DURING THE COURSE OF AN INITIAL APPEARANCE OF  
 25 A DEFENDANT BEFORE A DISTRICT COURT COMMISSIONER IN ACCORDANCE  
 26 WITH MARYLAND RULE 4-213 MAY NOT BE USED AS EVIDENCE AGAINST THE  
 27 DEFENDANT IN A CRIMINAL PROCEEDING OR JUVENILE PROCEEDING.

28                           Article – Criminal Procedure

29           5-215.

30           A DEFENDANT WHO IS DENIED PRETRIAL RELEASE BY A DISTRICT COURT  
 31 COMMISSIONER OR WHO FOR ANY REASON REMAINS IN CUSTODY AFTER A  
 32 DISTRICT COURT COMMISSIONER HAS DETERMINED CONDITIONS OF RELEASE

1 UNDER MARYLAND RULE 4-216 SHALL BE PRESENTED TO A DISTRICT COURT  
 2 OR CIRCUIT COURT JUDGE WITHIN 48 HOURS OF THE DETERMINATION BY THE  
 3 DISTRICT COURT COMMISSIONER, EXCEPT FOR WEEKENDS AND HOLIDAYS  
 4 IMMEDIATELY IF THE COURT IS IN SESSION, OR IF THE COURT IS NOT IN  
 5 SESSION, AT THE NEXT SESSION OF THE COURT.

6 16-204.

7 (a) Representation of an indigent individual may be provided in accordance  
 8 with this title by the Public Defender or, subject to the supervision of the Public  
 9 Defender, by the deputy public defender, district public defenders, assistant public  
 10 defenders, or panel attorneys.

11 (b) (1) Indigent defendants or parties shall be provided representation  
 12 under this title in:

13 (i) a criminal or juvenile proceeding in which a defendant or  
 14 party is alleged to have committed a serious offense;

15 (ii) a criminal or juvenile proceeding in which an attorney is  
 16 constitutionally required to be present prior to presentment being made before a  
 17 commissioner or judge;

18 (iii) a postconviction proceeding for which the defendant has a  
 19 right to an attorney under Title 7 of this article;

20 (iv) any other proceeding in which confinement under a judicial  
 21 commitment of an individual in a public or private institution may result;

22 (v) a proceeding involving children in need of assistance under §  
 23 3-813 of the Courts Article; or

24 (vi) a family law proceeding under Title 5, Subtitle 3, Part II or  
 25 Part III of the Family Law Article, including:

26 1. for a parent, a hearing in connection with  
 27 guardianship or adoption;

28 2. a hearing under § 5-326 of the Family Law Article for  
 29 which the parent has not waived the right to notice; and

30 3. an appeal.

31 (2) (I) ~~Representation~~ **EXCEPT AS PROVIDED IN SUBPARAGRAPH**  
 32 **(II) OF THIS PARAGRAPH, REPRESENTATION** shall be provided to an indigent  
 33 individual in ~~all stages of~~ a proceeding listed in paragraph (1) of this subsection,

1 including, in criminal proceedings, ~~[custody, interrogation,]~~ ~~AT BAIL REVIEW BAIL~~  
2 ~~HEARING BEFORE A DISTRICT COURT OR CIRCUIT COURT JUDGE~~, preliminary  
3 hearing, arraignment, trial, and appeal.

4 (II) ~~THIS PARAGRAPH MAY NOT BE CONSTRUED TO~~  
5 ~~REQUIRE REPRESENTATION AT AN INITIAL APPEARANCE IN DISTRICT COURT~~  
6 ~~OR CIRCUIT COURT UNDER MARYLAND RULE 4-213. REPRESENTATION IS NOT~~  
7 ~~REQUIRED TO BE PROVIDED TO AN INDIGENT INDIVIDUAL AT AN INITIAL~~  
8 ~~APPEARANCE BEFORE A DISTRICT COURT COMMISSIONER.~~

9 SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That:

10 (a) There is a Task Force to Study the Laws and Policies Relating to  
11 Representation of Indigent Criminal Defendants by the Office of the Public Defender.

12 (b) The Task Force consists of the following members:

13 (1) two members of the Senate of Maryland, appointed by the  
14 President of the Senate on or before May 1, 2012;

15 (2) two members of the House of Delegates, appointed by the Speaker  
16 of the House on or before May 1, 2012;

17 (3) the Governor of Maryland, or the Governor's designee;

18 (4) the Public Defender of Maryland, or the Public Defender's  
19 designee;

20 (5) the Chief Judge of the District Court of Maryland, or the Chief  
21 Judge's designee;

22 (6) the Coordinator of Commissioner Activity of the District Court of  
23 Maryland, or the Coordinator's designee;

24 (7) the Superintendent of State Police, or the Superintendent's  
25 designee;

26 (8) the Attorney General of Maryland, or the Attorney General's  
27 designee;

28 (9) the Secretary of Public Safety and Correctional Services, or the  
29 Secretary's designee; and

30 (10) the following individuals, appointed by the Governor on or before  
31 May 1, 2012;

- 1                   (i)    a representative of the Maryland State's Attorneys'  
2 Association;
- 3                   (ii)   an attorney representing the plaintiffs in the ~~Quinton~~  
4 ~~Richmond, et al. v. Paul DeWolfe, Jr., et al. litigation~~ *DeWolfe v. Richmond litigation*;
- 5                   (iii)   a representative of the Maryland Chiefs of Police  
6 Association, Inc.;
- 7                   (iv)   a representative of the Maryland Sheriffs' Association;
- 8                   (v)    a representative of the Maryland Correctional  
9 Administrators Association;
- 10                  (vi)   an advocate for the rights of victims of domestic violence;
- 11                  (vii)   a victims' rights advocate;
- 12                  (viii)   a representative of the Maryland Association of Counties;
- 13                  (ix)    a representative of the Pretrial Justice Institute;
- 14                  (x)     a representative of the Public Justice Center;
- 15                  (xi)    a representative of NAACP – Legal Defense;
- 16                  (xii)   a representative of the National Association of Criminal  
17 Defense Lawyers;
- 18                  (xiii)   a representative of the American Civil Liberties Union; and
- 19                  (xiv)   an academic expert in the provision of counsel to the  
20 indigent.
- 21                  (c)    On or before May 1, 2012, the Governor shall appoint a chair of the Task  
22 Force from its membership.
- 23                  (d)    The Department of Legislative Services shall provide staff for the Task  
24 Force.
- 25                  (e)    A member of the Task Force:
- 26                    (1)    may not receive compensation for serving as a member of the Task  
27 Force; but
- 28                    (2)    is entitled to reimbursement for expenses under the Standard  
29 State Travel Regulations, as provided in the State budget.

1           (f)    The Task Force shall:

2                   (1)    study the adequacy and cost of State laws and policies relating to:

3                           (i)    representation of indigent criminal defendants by the Office  
4 of the Public Defender; and

5                           (ii)   the District Court commissioner and pretrial release  
6 systems; and

7                   (2)    consider and make recommendations regarding options for and  
8 costs of improving:

9                           (i)    the system of representation of indigent criminal  
10 defendants; and

11                           (ii)   the District Court commissioner and pretrial release  
12 systems.

13           (g)    (1)    On or before November 1, 2012, the Task Force shall submit an  
14 interim report of its findings and recommendations to the Governor and, in accordance  
15 with § 2-1246 of the State Government Article, the Senate Judicial Proceedings  
16 Committee and the House Judiciary Committee.

17                   (2)    On or before November 1, 2013, the Task Force shall submit a final  
18 report of its findings and recommendations to the Governor, and, in accordance with §  
19 2-1246 of the State Government Article, the Senate Judicial Proceedings Committee  
20 and the House Judiciary Committee.

21                   SECTION 5. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
22 read as follows:

23   Article – Criminal Procedure

24                   4-101.1.

25                   (A)    (1)    IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
26 MEANINGS INDICATED.

27                           (2)    “LAW ENFORCEMENT AGENCY” MEANS AN AGENCY THAT IS  
28 LISTED IN § 3-101(E) OF THE PUBLIC SAFETY ARTICLE AND THAT, IN  
29 ACCORDANCE WITH SUBSECTION (C) OF THIS SECTION, IS SUBJECT TO THE  
30 PROVISIONS OF THIS SECTION.

1           (3) “LAW ENFORCEMENT OFFICER” MEANS ANY PERSON WHO, IN  
2 AN OFFICIAL CAPACITY, IS AUTHORIZED BY LAW TO MAKE ARRESTS AND WHO IS  
3 AN EMPLOYEE OF A LAW ENFORCEMENT AGENCY THAT IS SUBJECT TO THIS  
4 SECTION.

5           (4) “MARYLAND STATISTICAL ANALYSIS CENTER” MEANS THE  
6 RESEARCH, DEVELOPMENT, AND EVALUATION COMPONENT OF THE  
7 GOVERNOR’S OFFICE OF CRIME CONTROL AND PREVENTION.

8           (5) “POLICE TRAINING COMMISSION” MEANS THE UNIT WITHIN  
9 THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES  
10 ESTABLISHED UNDER § 3-202 OF THE PUBLIC SAFETY ARTICLE.

11           (B) THE POLICE TRAINING COMMISSION AND THE MARYLAND  
12 STATISTICAL ANALYSIS CENTER, IN CONSULTATION WITH THE  
13 ADMINISTRATIVE OFFICE OF THE COURTS, SHALL DEVELOP A FORMAT FOR THE  
14 EFFICIENT RECORDING OF DATA REQUIRED TO BE SUBMITTED UNDER  
15 SUBSECTION (E) OF THIS SECTION.

16           (C) ON OR BEFORE DECEMBER 31, 2012, THE POLICE TRAINING  
17 COMMISSION, IN CONSULTATION WITH THE MARYLAND STATISTICAL ANALYSIS  
18 CENTER, SHALL DEVELOP:

19           (1) GUIDELINES THAT EACH LAW ENFORCEMENT AGENCY MAY USE  
20 AS A MANAGEMENT TOOL TO EVALUATE DATA COLLECTED UNDER SUBSECTION  
21 (E) OF THIS SECTION FOR USE IN COUNSELING AND IMPROVED TRAINING; AND

22           (2) A MODEL POLICY AGAINST THE ISSUANCE OF A CITATION ON  
23 THE BASIS OF RACE THAT A LAW ENFORCEMENT AGENCY CAN USE IN  
24 DEVELOPING ITS POLICY IN ACCORDANCE WITH SUBSECTION (H) OF THIS  
25 SECTION.

26           (D) THIS SECTION APPLIES TO EACH LAW ENFORCEMENT AGENCY THAT  
27 HAS ONE OR MORE LAW ENFORCEMENT OFFICERS.

28           (E) EACH TIME A LAW ENFORCEMENT OFFICER ISSUES A CITATION IN  
29 ACCORDANCE WITH § 4-101 OF THIS SUBTITLE, THAT OFFICER SHALL REPORT  
30 THE FOLLOWING INFORMATION ON THE MARYLAND UNIFORM CITATION FORM  
31 CONSISTENT WITH THE PROCEDURES DEVELOPED UNDER SUBSECTION (F) OF  
32 THIS SECTION USING THE FORMAT DEVELOPED UNDER SUBSECTION (B) OF THIS  
33 SECTION:

34           (1) THE DATE, LOCATION, AND TIME OF THE ISSUANCE OF THE  
35 CITATION;

1           **(2) THE OFFENSE CHARGED;**

2           **(3) THE GENDER OF THE OFFENDER;**

3           **(4) THE DATE OF BIRTH OF THE OFFENDER;**

4           **(5) THE STATE AND, IF AVAILABLE, THE COUNTY OF RESIDENCE**  
5 **OF THE OFFENDER; AND**

6           **(6) THE RACE OR ETHNICITY OF THE OFFENDER AS:**

7                   **(I) ASIAN;**

8                   **(II) BLACK;**

9                   **(III) HISPANIC;**

10                   **(IV) WHITE; OR**

11                   **(V) OTHER.**

12           **(F) ON OR BEFORE DECEMBER 31, 2012, THE POLICE TRAINING**  
13 **COMMISSION AND THE MARYLAND STATISTICAL ANALYSIS CENTER, IN**  
14 **CONSULTATION WITH THE ADMINISTRATIVE OFFICE OF THE COURTS, SHALL**  
15 **DEVELOP A PROCEDURE FOR:**

16                   **(1) THE COMPILATION OF DATA REQUIRED TO BE COLLECTED**  
17 **UNDER THIS SECTION FOR THE CALENDAR YEAR AS A REPORT IN THE FORMAT**  
18 **REQUIRED UNDER SUBSECTION (B) OF THIS SECTION; AND**

19                   **(2) THE SUBMISSION OF THE REPORT TO THE MARYLAND**  
20 **STATISTICAL ANALYSIS CENTER NO LATER THAN MARCH 1 OF THE FOLLOWING**  
21 **CALENDAR YEAR BEGINNING ON MARCH 1, 2014.**

22           **(G) (1) THE MARYLAND STATISTICAL ANALYSIS CENTER SHALL**  
23 **ANALYZE THE ANNUAL REPORTS SUBMITTED UNDER SUBSECTION (F) OF THIS**  
24 **SECTION BASED ON A METHODOLOGY DEVELOPED IN CONSULTATION WITH THE**  
25 **POLICE TRAINING COMMISSION.**

26                   **(2) THE MARYLAND STATISTICAL ANALYSIS CENTER SHALL**  
27 **SUBMIT A REPORT OF THE FINDINGS TO THE GOVERNOR, THE GENERAL**  
28 **ASSEMBLY, AS PROVIDED IN § 2-1246 OF THE STATE GOVERNMENT ARTICLE,**

1 AND EACH LAW ENFORCEMENT AGENCY BEFORE SEPTEMBER 1 OF EACH YEAR  
 2 BEGINNING ON SEPTEMBER 1, 2014.

3 (H) (1) A LAW ENFORCEMENT AGENCY SHALL ADOPT A POLICY  
 4 AGAINST THE ISSUANCE OF A CITATION ON THE BASIS OF RACE THAT IS TO BE  
 5 USED AS A MANAGEMENT TOOL TO PROMOTE NONDISCRIMINATORY LAW  
 6 ENFORCEMENT AND IN THE TRAINING AND COUNSELING OF ITS OFFICERS.

7 (2) (I) THE POLICY SHALL PROHIBIT THE PRACTICE OF USING  
 8 AN INDIVIDUAL'S RACE OR ETHNICITY AS THE SOLE JUSTIFICATION TO ISSUE A  
 9 CITATION.

10 (II) THE POLICY SHALL MAKE CLEAR THAT IT MAY NOT BE  
 11 CONSTRUED TO ALTER THE AUTHORITY OF A LAW ENFORCEMENT OFFICER TO  
 12 MAKE AN ARREST, CONDUCT A SEARCH OR SEIZURE, OR OTHERWISE FULFILL  
 13 THE OFFICER'S LAW ENFORCEMENT OBLIGATIONS.

14 (3) THE POLICY SHALL PROVIDE FOR THE LAW ENFORCEMENT  
 15 AGENCY TO PERIODICALLY REVIEW DATA COLLECTED UNDER SUBSECTION (E)  
 16 OF THIS SECTION AND TO REVIEW THE ANNUAL REPORT OF THE MARYLAND  
 17 STATISTICAL ANALYSIS CENTER FOR PURPOSES OF PARAGRAPH (1) OF THIS  
 18 SUBSECTION.

19 SECTION 6. AND BE IT FURTHER ENACTED, That Section 2 of this Act  
 20 shall take effect January 1, 2013.

21 SECTION ~~4~~ 7. AND BE IT FURTHER ENACTED, That the obligation of the  
 22 Office of the Public Defender to provide representation to indigent defendants at bail  
 23 hearings before District Court or circuit court judges under § 16-204 of the Criminal  
 24 Procedure Article, as enacted by Section ~~2~~ 3 of this Act, applies only to bail hearings  
 25 occurring on or after June 1, 2012.

26 SECTION 8. AND BE IT FURTHER ENACTED, That, beginning January 1,  
 27 2013, data shall be collected under Section 5 of this Act through December 31, 2017,  
 28 and the Maryland Statistical Analysis Center shall issue a final report of its findings to  
 29 the Governor, the General Assembly, in accordance with § 2-1246 of the State  
 30 Government Article, and each law enforcement agency on or before August 31, 2018.

31 SECTION ~~2~~ ~~5~~ 9. AND BE IT FURTHER ENACTED, That this Act is an  
 32 emergency measure, is necessary for the immediate preservation of the public health  
 33 or safety, has been passed by a yea and nay vote supported by three-fifths of all the  
 34 members elected to each of the two Houses of the General Assembly, ~~and~~ and, except  
 35 as provided in Section 6 of this Act, shall take effect from the date it is enacted. Section  
 36 ~~2~~ 4 of this Act shall remain effective until June 1, 2014, and, at the end of May 31,  
 37 2014, with no further action required by the General Assembly, Section ~~2~~ 4 of this Act

1 shall be abrogated and of no further force and effect. Section 5 of this Act shall remain  
2 effective until September 1, 2018, and, at the end of August 31, 2018, with no further  
3 action required by the General Assembly, Section 5 of this Act shall be abrogated and of  
4 no further force and effect.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.